

§ 655.1030

ensure production of relevant and probative evidence shall guide the admission of evidence. The administrative law judge may exclude evidence which is immaterial, irrelevant, or unduly repetitive.

§ 655.1030 Service and computation of time.

(a) Under this subpart, a party may serve any pleading or document by regular mail. Service on a party is complete upon mailing to the last known address. No additional time for filing or response is authorized where service is by mail. In the interest of expeditious proceedings, the administrative law judge may direct the parties to serve pleadings or documents by a method other than regular mail.

(b) Two (2) copies of all pleadings and other documents in any administrative law judge proceeding shall be served on the attorneys for the Administrator. One copy shall be served on the Associate Solicitor, Division of Fair Labor Standards, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue NW., room N-2716, Washington, DC 20210, and one copy on the attorney representing the Administrator in the proceeding.

(c) Time under this subpart shall be computed beginning with the day following the action and includes the last day of the period unless it is a Saturday, Sunday, or federally-observed holiday, in which case the time period includes the next business day.

§ 655.1035 Administrative law judge proceedings.

(a) Upon receipt of a timely request for a hearing filed pursuant to and in accordance with § 655.1020 of this part, the Chief Administrative Law Judge shall promptly appoint an administrative law judge to hear the case.

(b) The date of the hearing shall be not more than 60 calendar days from the date of the Chief Administrative Law Judge's receipt of the request for hearing.

(c) The administrative law judge may prescribe a schedule by which the parties are permitted to file a prehearing brief or other written statement of fact or law. Any such brief or statement shall be served upon each other party

20 CFR Ch. V (4-1-12 Edition)

in accordance with § 655.1030 of this part. Posthearing briefs shall not be permitted except at the request of the administrative law judge. When permitted, any such brief shall be limited to the issue or issues specified by the administrative law judge, shall be due within the time prescribed by the administrative law judge, and shall be served in accordance with § 655.1030 of this part.

(d) Amicus curiae participation or intervention by interested parties may be permitted by the administrative law judge in his/her discretion pursuant to 29 CFR 18.10. If such participation is granted, the amicus curiae and/or intervenor shall serve all documents and be served by the parties in accordance with § 655.1030 of this part. In no event, however, shall such participation be permitted to delay the proceedings beyond the deadline specified in paragraphs (b) and (c) of this section.

§ 655.1040 Decision and order of administrative law judge.

(a) Within 90 calendar days after receipt of the transcript of the hearing, the administrative law judge shall issue a decision.

(b) The decision of the administrative law judge shall include a statement of findings and conclusions, with reasons and basis therefore, upon each material issue presented on the record. The decision shall also include an appropriate order which may affirm, deny, reverse, or modify, in whole or in part, the determination of the Administrator; the reason or reasons for such order shall be stated in the decision.

(c) The administrative law judge, in accordance with § 655.940 (d) and (e) of this part, shall impose upon the employer the burden of proving the validity of and compliance with the attestation.

(d) If the administrative law judge finds that the employer has failed to pay the required wage rate or has provided an attestation which is materially false, the judge shall order that the employer be disqualified from employing F-1 students.

(e) In the event that the Administrator's determination(s) of wage violation(s) is based upon a wage determination obtained by the Administrator